

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

United States of America,

Case No. 19-cr-0250 (WMW/ECW) (1)

Plaintiff,

ORDER

v.

Johnnie Lamar Haynes (1),

Defendant.

This matter is before the Court on Defendant Johnnie Lamar Haynes's motion for an extension of time to file a motion to vacate his conviction or sentence pursuant to 28 U.S.C. § 2255. (Dkt. 298.)

In August 2021, a jury found Haynes guilty of two counts of possessing a firearm or ammunition as a prohibited person, in violation of 18 U.S.C. §§ 2, 922(g)(1). The Court thereafter sentenced Haynes to 155 months' imprisonment in February 2022. Haynes appealed his sentence and his appeal is currently before the United States Court of Appeals for the Eighth Circuit..

A Section 2255 motion to vacate a conviction or sentence must be filed within one year after a judgment of conviction becomes final. 28 U.S.C. § 2255(f)(1). For purposes of Section 2255, a conviction becomes final "after the 90-day period for filing a petition for a writ of certiorari [has] expired." *Muhammad v. United States*, 735 F.3d 812, 814 (8th Cir. 2013). The Eighth Circuit has not decided Haynes's appeal, and Haynes's post-appeal period for filing a petition for a writ of certiorari has neither started nor expired. The one-

year period for timely filing a Section 2255 motion to vacate a conviction or sentence has not yet begun for Haynes, and, therefore, there is no deadline for the Court to extend. Accordingly, the Court denies Haynes's request as unripe. When Haynes's conviction becomes final within the meaning of Section 2255, however, Haynes may renew any requests for filing-deadline extensions as appropriate. The denial, therefore, is without prejudice.

ORDER

Based on the foregoing analysis and all the files, records and proceedings herein, **IT IS HEREBY ORDERED** that Defendant Johnnie Lamar Haynes's motion for an extension of time to file a motion to vacate his conviction or sentence pursuant to 28 U.S.C. § 2255, (Dkt. 298), is **DENIED WITHOUT PREJUDICE**.

Dated: December 21, 2022

s/Wilhelmina M. Wright
Wilhelmina M. Wright
United States District Judge